

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALISHIA ANDERSON,

Plaintiff,

-against-

SCHNEIDER NATIONAL INC., et al.,

Defendants.

THIRD ORDER OF SERVICE

22-CV-01689 (PMH)

PHILIP M. HALPERN, United States District Judge:

Alishia Anderson (“Plaintiff”) brings this employment discrimination action against Defendants: (1) Schneider National Inc. (“Schneider”); and (2) Scott Tomick (“Tomick,” and together, “Defendants”), Schneider’s “Driver Business Leader.” (Doc. 1 at 4). Plaintiff provided two addresses for Defendants in the complaint: a Montgomery, New York address for Tomick and a Green Bay, Wisconsin address for Schneider. However, in a letter from the Equal Employment Opportunity Commission (“EEOC”) attached to the complaint, the EEOC includes the Montgomery, New York, address for Schneider as well. The Court, therefore, on March 11, 2022, directed the Clerk of Court to provide the U.S. Marshals with the Montgomery, New York address for service upon both Defendants. (Doc. 7).

On May 18, 2022, the U.S. Marshals filed two USM-285 Process Receipt and Return forms indicating that neither of the Defendants could be served at the New York address because the address provided “was a vacant field.” (Docs. 13, 14). The Court, therefore, issued a second Order of Service, directing the U.S. Marshals to effect service on Defendants at the Green Bay, Wisconsin address. (Doc. 15). The U.S. Marshals, however, again filed an unexecuted Process Receipt and Return on October 31, 2022, noting that “Schneider Legal informed [USM] that they will not

accept service on behalf of an individual nor provide information on their current employees unless compelled by a Court to do so.” (Doc. 17).

Because Plaintiff has been granted permission to proceed IFP, Plaintiff is entitled to rely on the Court and the U.S. Marshals Service to effect service. *Walker v. Schult*, 717 F.3d 119, 123 n.6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) (“The officers of the court shall issue and serve all process . . . in [IFP] cases.”); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summonses and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date that new summonses are issued based on this Order. If the complaint is not served within that time, Plaintiff should request an extension of time for service. *See Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012) (holding that it is the plaintiff’s responsibility to request an extension of time for service); *see also Murray v. Pataki*, 378 F. App’x 50, 52 (2d Cir. 2010) (“As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals’ failure to effect service automatically constitutes ‘good cause’ for an extension of time within the meaning of Rule 4(m).”).

Accordingly, the Clerk of Court is respectfully requested to fill out USM-285 forms for Defendants Schneider National Inc. and Scott Tomick, issue new summonses for each Defendant, and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon those parties, including a copy of this Order.

The U.S. Marshals Service is respectfully directed to also mail a copy of the Complaint, along with a Waiver of Service form, to Defendants at the address provided herein, pursuant to

Federal Rule of Civil Procedure 4(d)(1). Should Defendants fail to return the Waiver of Service form without good cause, the Court shall order Defendants to pay the expenses incurred in effecting service, pursuant to Federal Rule of Civil Procedure 4(d)(2).

SO ORDERED.

Dated: White Plains, New York
November 14, 2022

A handwritten signature in black ink, appearing to read 'P. Halpern', is written over a horizontal line.

PHILIP M. HALPERN
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. Schneider National Inc.
P.O. Box 2545
3101 South Packerland Drive
Green Bay, Wisconsin 54306-2545
2. Scott Tomick
P.O. Box 2545
3101 South Packerland Drive
Green Bay, Wisconsin 54306-2545